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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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PATRICK J S INOUE P S
810 3RD AVENUE
SUITE 258
SEATTLE, WA 98104

EXAMINER

MANCHO, RONNIE M

ART UNIT PAPER NUMBER

3663

DATE MAILED: 11/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/774,301

Applicant(s)

IRISH ET AL.

Examiner

Ronnie Mancho

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) 6-26 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-5 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Status

1. Upon review of the amendment submitted 8/26/05 it deemed that an election/restriction is required. Any inconvenience to the applicant is regretted.

Election/Restrictions

2. Newly submitted claims 1-18 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: The applicant added new claims 2-18 which have limitations which were not originally part of the original invention.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 6-18 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

3. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-5 are drawn to a system for executing user-definable events triggered through geolocational data describing zones of influence classified in class 701/207, 208.
 - II. Claims 12-18 are drawn to a system for building a user-customizable cartridge for use with a wireless computing device classified in class 701/216; 340/323R, 286.02.

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III. Claims 6-11 are drawn to a method for executing user-definable events triggered through geolocational data describing zones of influence, classified in class 340/825.47; 455/306, 457.

IV. Claims 19-26 are drawn to a method for building a user-customizable cartridge for use with a wireless computing device, classified in class 455/414.2, 414.3.

The inventions are distinct, each from the other because of the following reasons:

4. Inventions (III/IV) and (I/II) are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the product (cartridge) as claimed can be made by another and materially different process. That is instead of building a template of a cartridge based on user instructions, the template of the cartridge can be built based on user instructions and a software on a computer.
5. Inventions (II) and (I) are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the apparatus as claimed can be used to practice another and materially different process. That is instead of using the system as claimed for executing user-definable events triggered through geolocational data, the system as claimed can be used for practicing a navigation process.
6. Inventions (III) and (IV) are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be

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separately usable. In the instant case, invention (IV) has separate utility such as in compiling a cartridge template into a cartridge script. See MPEP § 806.05(d).

7. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

8. Applicant is advised that the reply to this requirement is to be complete and must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

9. Claims 1-5 are active in the case. As necessitated by the applicant's new amended claims 1-5, an election of species is required.

Applicant is required under 35 U.S.C. 121 to elect one of the following disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently no claims are generic.

- a. The embodiment of fig. 1A
- b. The embodiment of fig. 1B
- c. The embodiment of fig. 2A&2B
- d. The embodiment of fig. 3A&B
- e. The embodiment of fig. 4
- f. The embodiment of fig. 5A&5B
- g. The embodiment of fig. 6
- h. The embodiment of fig. 7
- i. The embodiment of fig. 8

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- j. The embodiment of fig. 10
- k. The embodiment of fig. 11
- l. The embodiment of fig. 12
- m. The embodiment of fig. 13
- n. The embodiment of fig. 14
- o. The embodiment of fig. 15
- p. The embodiment of fig. 16
- q. The embodiment of fig. 17
- r. The embodiment of fig. 18
- s. The embodiment of fig. 19
- t. The embodiment of fig. 20
- u. The embodiment of fig. 21
- v. The embodiment of fig. 22
- w. The embodiment of fig. 23
- x. The embodiment of fig. 24
- y. The embodiment of fig. 25
- z. The embodiment of fig. 26

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

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Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

10. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Communication

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ronnie Mancho whose telephone number is 571/272/6984. The examiner can normally be reached on Mon-Thurs: 9-5.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Keith can be reached on 571/272/6878. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ronnie Mancho
Examiner
Art Unit 3663

11/4/05


JACK KEITH
SUPERVISORY PATENT EXAMINER